THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.7991 of 2004

Date : 21-9-2006

Between:

M/s.Mahati Constructions Pvt. Limited.
represented by its Director
Sri K.Bhaskar Rao .. Petitioner

And

The Hyderabad Urban Development Authority,
represented by its Vice Chairman .. Respondent

THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.7991 of 2004

ORDER:

1. Heard the Counsel.

2. The Writ Petition is filed for a Writ of Mandamus declaring the legal representative No.8392/Misc./Plg/H/2003, dated 23-10-2003 issued by respondent rejecting building permission in Sy.Nos.53, 54 and 55 of Lingojiguda village, Saroornagar Mandal, Ranga Reddy District as illegal, arbitrary, discriminatory, violative of principles of natural justice and contrary to the record and consequently direct the respondent to grant permission to the petitioner as per the plan submitted and to pass such other suitable orders.

3. Sri Kowturu Vinaya Kumar, the learned Counsel representing the petitioner had taken this Court through the contents of the affidavit filed in support of the Writ Petition and also the stand taken in the counter affidavit filed by the respondent. It is stated that the petitioner is a Company registered under the Companies Act and its main activity is construction of flats and to take up any other construction activity and in the said process the petitioner purchased an extent of 729 sq. yards in Sy.Nos.53, 54 and 55 situate at Lingojiguda village, Saroornagar Mandal, Ranga Reddy District through a registered sale deed No.232/03 dated 22-1-2003 from its rightful owner and possessor Smt.Shobarani and others for a valuable consideration and in fact prior to the said sale transaction the vendor of the petitioner had applied on 10-1-2003 seeking

permission for construction of flats. It is further stated that the said application had been rejected by the respondent on 30-1-2003 for the following reasons :

a) the site is not having an established 40'-00" wide B.T. road (having only 40'-0" WBM road);
b) the dimension and shape of the site no doubt area of the site is different as per the layout approved for this area where as thin land is left for owners land; and
c) there is an existing lane of about 20'-0" is passing all along the North-West side of the site but the same is not shown and the proposals are to be submitted by widening of this road to 30'-0" wide.

It is also stated that thereafter by complying the objections raised by the respondent the vendor of the petitioner had again applied on 3-2-2003 but the same was rejected on 7-4-2003. It is also stated that they had advised her to approach the Municipality and seek necessary residential building permission separately on the basis of alternative existing 20' road from neighbouring developed colony. In the said letter dated 7-4-2003 the respondent had mainly stated that the existing 40' approach road shown was through group housing layout wherein final layout approval is still pending and cannot be treated as registered road. It is also stated that thereafter the petitioner had obtained registered sale deed from the owner and applied again on 7-7-2003 duly paying the necessary fees, enclosing necessary plans and complying all conditions but the respondent had sent a reply on 28-8-2003 rejecting the request on the same ground stating that "you have shown 40' wide road as main approach to the site through internal colony group housing layout which is still in draft stage and this road cannot be treated as registered road". It is further stated that by explaining the queries the petitioner had submitted an elaborate representation to the respondent on 23-9-2003 but without appreciating the same and without examining the issues in a practical manner the respondent had issued the impugned

order dated 23-10-2003 rejecting the request on the ground that the 40' road cannot be treated as registered road. Several other factual details also had been narrated.

4. In the counter affidavit filed in paras 3, 4 and 5 and also in para-6, the reasons why the request cannot be considered had been specified.

5. In the light of the respective stands taken by the parties, especially in the light of the several factual details which had been narrated and also taking into consideration the stand taken by the respondent and also the fact that several representations had been made in this regard, the Writ Petition is disposed of directing the respondent to consider the whole issue taking into consideration all the facts and circumstances after affording an opportunity to the petitioner, as early as possible, preferably within a period of two months from the date of receipt of this order. No costs.

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Justice P.S.Narayana

Date : 21-9-2006

AM